

Theresa M. Marchlewski (SBN 82429)
Ellen E. Cohen (SBN 258131)
Jade M. Brewster (SBN 303116)
JACKSON LEWIS P.C.
725 South Figueroa Street, Suite 2500
Los Angeles, California 90017-5408
Telephone: (213) 689-0404
Facsimile: (213) 689-0430
Email: theresa.marchlewski@jacksonlewis.com
Email: ellen.cohen@jacksonlewis.com
Email: jade.brewster@jacksonlewis.com

Attorneys for Defendants
PALISADES CHARTER HIGH SCHOOL and
AMY NGUYEN

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

ROYA SAGHAFI, an individual,

Plaintiff,

vs.

PALISADES CHARTER HIGH SCHOOL, a
corporation; AMY NGUYEN, an individual; and
DOES 1 through 10,

Defendants.

CASE NO.: **BC708497**

*[Assigned for all purposes to the Honorable Ruth
Ann Kwan, Department 72]*

MOTION IN LIMINE NO. 5

**DEFENDANTS PALISADES CHARTER
HIGH SCHOOL AND AMY NGUYEN'S
NOTICE OF MOTION AND MOTION *IN
LIMINE* TO EXCLUDE EVIDENCE AND
ARGUMENT REGARDING FINANCIAL
CONDITION OF THE PARTIES;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF ELLEN
E. COHEN IN SUPPORT THEREOF**

(Filed Concurrently with [Proposed] Order)

Date: August 9, 2019
Time: 8:30 a.m.
Place: Department 72

FSC Date: August 9, 2019
Trial Date: August 29, 2019
Complaint Filed: June 1, 2018

1 **TO THE HONORABLE COURT, PLAINTIFF, AND HER ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on August 9, 2019 at 8:30 a.m., or as soon thereafter as the
3 matter may be heard in the above-captioned Court located at 111 North Hill Street, Los Angeles,
4 California 90012, in Department 72, Defendants Palisades Charter High School and Amy Nguyen
5 (“Defendants”) will and hereby do move the Court for an order *in limine* prohibiting Plaintiff Roya
6 Saghafi (“Plaintiff”), her counsel and/or witnesses from offering argument or evidence regarding
7 Plaintiff’s and Defendants’ financial situation.

8 This motion is made pursuant to Evidence Code sections 350 and 352 and Civil Code sections
9 3294 and 3295 on the grounds that such evidence is irrelevant and on the grounds that the probative
10 value of such evidence is greatly outweighed by its prejudicial effect and on the grounds that the
11 introduction of such evidence necessarily constitutes the introduction of evidence regarding Defendants’
12 net worth and financial condition.

13 This motion is based on this Notice of Motion, the attached Memorandum of Points and
14 Authorities, the Declaration of Ellen E. Cohen, and upon all pleadings, records and files in this action,
15 and upon such other documentary and oral evidence as may be offered to the Court at the time of the
16 hearing on this matter.

17
18 Dated: July 15, 2019

JACKSON LEWIS P.C.

19
20 By: Theresa M. Marchlewski

21 Theresa M. Marchlewski
22 Ellen E. Cohen
23 Jade M. Brewster

24 Attorneys for Defendants
25 PALISADES CHARTER HIGH SCHOOL and
26 AMY NGUYEN
27
28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION.**

3 Plaintiff alleges that during her employment, Defendants Palisades Charter High School
4 (“PCHS”) and Amy Nguyen (“Nguyen”) (collectively, “Defendants”) subjected her to discrimination,
5 harassment and retaliation based on her race, national origin, religion and age. Plaintiff claims that she
6 complained about harassment and discrimination, but that Defendants failed to address her complaints
7 and instead retaliated against her.

8 Defendants anticipate that Plaintiff may attempt to offer testimony or evidence the respective
9 financial situations of Plaintiff and Defendants. For the reasons stated below, Defendants respectfully
10 request an Order prohibiting Plaintiff from offering argument or evidence regarding any of these
11 subjects.

12 **II. LEGAL ARGUMENT.**

13 **A. Evidence Or Argument Regarding The Parties Financial Situations Is Irrelevant To**
14 **The Issues In This Case and Highly Prejudicial.**

15 “‘Relevant evidence’ means evidence, ... having any tendency in reason to prove or disprove
16 any disputed fact that is of consequence to the determination of the action.” Evid. Code § 210.
17 Moreover, “no evidence is admissible except relevant evidence.” Evid. Code § 350. The California
18 Supreme Court has repeatedly held that irrelevant evidence *must* be excluded and a trial court has no
19 discretion to admit it. (*See e.g., Fuentes v. Tucker* (1947) 31 Cal.2d 1, 7 [“there is no room for the
20 exercise of discretion to admit irrelevant evidence”]; *People v. Derello* (1989) 211 Cal.App.3d 414, 425-
21 26 [“There is no discretion vested in a court to admit irrelevant evidence”].) Here, Plaintiff’s and
22 Defendants’ financial situation are completely irrelevant to the central issue in this case: whether
23 Defendant discriminated and wrongfully terminated Plaintiff because of his race, national origin,
24 disability, gender or marital status.

25 **B. The Probative Value of Evidence of the Parties Financial Situations is Substantially**
26 **More Prejudicial than Probative.**

27 Evidence Code, § 352 permits the Court to exclude prejudicial evidence as follows:

28 “The court in its discretion may exclude evidence if its probative value is substantially
outweighed by the probability that its admission will (a) necessitate undue consumption of time;

1 or (b) create substantial danger of undue prejudice or confusing the issues or of misleading the
2 jury.”

3 Allowing Plaintiff to introduce evidence relating to the Parties’ financial situations is fraught the
4 danger of undue prejudice and confusing the issues. For instance, the disclosure of PCHS’s financial
5 condition is likely to lead the jury to perceive PCHS as a “deep pocket” and lose focus on the actual
6 issues to be decided at trial. Similarly, introducing evidence of Plaintiff’s financial situation may
7 engender more sympathy from the jury, again losing focus on the issues to be decided. Further,
8 allowing Plaintiff to introduce such evidence is likely to necessitate the undue consumption of time in
9 that it will force the parties to spend time on a collateral issue which has nothing to do with the merits of
10 this case.

11 **C. To Permit Admission Of Evidence Regarding the Parties’ Financial Situations**
12 **Would Violate Civil Code Section 3295.**

13 Civil Code section 3295(d) provides in part:

14 “The court shall, on application of any defendant, preclude the admission of evidence of
15 that defendant’s profits or financial condition until after the trier of fact returns a verdict
16 for plaintiff awarding actual damages and finds that a defendant is guilty of malice,
17 oppression, or fraud in accordance with Section 3294. Evidence of profit and financial
18 condition shall be admissible only as to the defendant or defendants found to be liable to
19 the plaintiff and to be guilty of malice, oppression, or fraud.”

20 While Defendants have filed a motion to bifurcate these proceedings, Defendants are compelled
21 to ensure that evidence regarding its financial condition is not admitted by allowing Plaintiff to admit
22 evidence regarding their financial condition. Allowing Plaintiff to introduce such evidence would
23 necessarily amount to the admission of evidence regarding the parties’ financial condition in violation of
24 Civil Code § 3295.
25
26
27
28

As more fully set forth in the Declaration of Ellen E. Cohen, pursuant to Los Angeles Superior Court Rule 3.57, Defendants communicated the subject matter of this motion to Plaintiff's counsel on July 3, 2019. The parties were not able to reach an agreement.

III. CONCLUSION.

For each of the foregoing reasons, Defendant respectfully requests that the Court grants its motion in *limine* in its entirety during trial, including during *voir dire*.

Dated: July 15, 2019

JACKSON LEWIS P.C.

By: Kesum Maheuli

Theresa M. Marchlewski
Ellen E. Cohen
Jade M. Brewster

Attorneys for Defendants
PALISADES CHARTER HIGH SCHOOL and
AMY NGUYEN

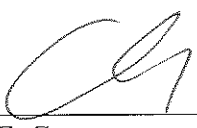
DECLARATION OF ELLEN E. COHEN

I, Ellen E. Cohen, declare:

1. I am an attorney licensed to practice law before all courts of the State of California. I am a partner of the law firm of Jackson Lewis P.C., attorneys of record for Defendants Palisades Charter High School and Amy Nguyen ("Defendants") in the above-referenced case. I am one of the attorneys primarily responsible for the handling of this matter. I have personal knowledge as to the matters set forth herein and, if called to testify in this matter, could and would competently testify thereto.

2. In compliance with Los Angeles Superior Court Rule 3.57, on July 3, 2019, I met and conferred with counsel for Plaintiff Roya Saghafi, regarding the subject matter of the motions in limine Defendants intended to bring. The parties were not able to reach agreement. Attached hereto as **Exhibit "A"** is a true and correct copy of the July 3, 2019 correspondence.

I declare under penalty of perjury that the foregoing is true and correct. This declaration was executed pursuant to the laws of the State of California on July 12, 2019 in Los Angeles, California.



ELLEN E. COHEN

EXHIBIT A



ELLEN E. COHEN

DIRECT DIAL: (213) 630-8240

E-MAIL ADDRESS: ELLEN.COHEN@JACKSONLEWIS.COM

Jackson Lewis P.C.
725 South Figueroa Street
Suite 2500
Los Angeles, California 90017
Tel 213 689-0404
Fax 213 689-0430
www.jacksonlewis.com

Representing Management Exclusively in Workplace Law and Related Litigation

ALBANY, NY	GREENVILLE, SC	MONMOUTH COUNTY, NJ	RALEIGH, NC
ALBUQUERQUE, NM	HARTFORD, CT	MORRISTOWN, NJ	RAPID CITY, SD
ATLANTA, GA	HONOLULU, HI*	NEW ORLEANS, LA	RICHMOND, VA
AUSTIN, TX	HOUSTON, TX	NEW YORK, NY	SACRAMENTO, CA
BALTIMORE, MD	INDIANAPOLIS, IN	NORFOLK, VA	SALT LAKE CITY, UT
BIRMINGHAM, AL	JACKSONVILLE, FL	OMAHA, NE	SAN DIEGO, CA
BOSTON, MA	KANSAS CITY REGION	ORANGE COUNTY, CA	SAN FRANCISCO, CA
CHICAGO, IL	LAS VEGAS, NV	ORLANDO, FL	SAN JUAN, PR
CINCINNATI, OH	LONG ISLAND, NY	PHILADELPHIA, PA	SEATTLE, WA
CLEVELAND, OH	LOS ANGELES, CA	PHOENIX, AZ	ST. LOUIS, MO
DALLAS, TX	MADISON, WI	PITTSBURGH, PA	TAMPA, FL
DAYTON, OH	MEMPHIS, TN	PORTLAND, OR	WASHINGTON, DC REGION
DENVER, CO	MIAMI, FL	PORTSMOUTH, NH	WHITE PLAINS, NY
DETROIT, MI	MILWAUKEE, WI	PROVIDENCE, RI	
GRAND RAPIDS, MI	MINNEAPOLIS, MN		

*through an affiliation with Jackson Lewis P.C., a Law Corporation

July 3, 2019

VIA EMAIL AND U.S. MAIL

Hull ann@yahoo.com

Ann A. Hull, Esq.
LAW OFFICES OF ANNA A. HULL, INC.
21900 Burbank Boulevard
Third Floor
Woodland Hills, California 91367

Re: **Roya Saghafi v. Palisades Charter High School, et al.**
Los Angeles Superior Court, Case No. BC708497

Dear Counsel:

Pursuant to Los Angeles Superior Court Local Rule 3.57, we write to meet and confer regarding the motions *in limine* Defendants Palisades Charter High School and Amy Nguyen. ("Defendants") intend to file with the Court. At this time, Defendants intend to file the following pre-trial motions:

1. Motion *in limine* to exclude evidence Plaintiff failed or refused to produce during the course of discovery.
2. Motion *in limine* to exclude evidence of alleged discrimination against persons other than the Plaintiff, or "Me Too" evidence.
3. Motion *in limine* to exclude evidence of conduct barred by Plaintiff's failure to exhaust administrative remedies.
4. Motion *in limine* to exclude evidence of any subjective opinions of Plaintiff or Plaintiff's witnesses regarding her treatment by Defendants.
5. Motion *in limine* to exclude evidence regarding financial condition of the parties and existence of insurance.
6. Motion *in limine* to exclude evidence of inadmissible hearsay.

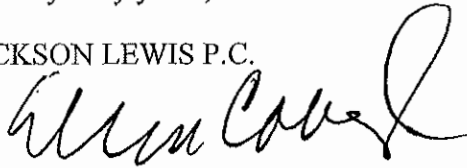
7. Motion to bifurcate punitive damages from liability stage.

Please let us know if Plaintiff is willing to stipulate to any of the above. Otherwise, Defendants' will proceed with filing these motions. It is imperative that you let us know Plaintiff's position on or before the close of business on Tuesday, **July 9, 2019**.

Thank you for your anticipated consideration and cooperation with this matter.

Very truly yours,

JACKSON LEWIS P.C.

A handwritten signature in black ink, appearing to read "Ellen Cohen", written over the printed name.

Ellen E. Cohen

EEC | ae

1 **PROOF OF SERVICE**

2 **SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 **CASE NAME:** *Roya Saghafi v. Palisades Charter High School, et al.*

4 **CASE NUMBER:** BC708497

5 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and
6 not a party to the within action; my business address is 725 South Figueroa Street, Suite 2500, Los
Angeles, California 90017.

7 On **July 15, 2019** I served the foregoing document described as:

8 **DEFENDANTS PALISADES CHARTER HIGH SCHOOL AND AMY NGUYEN'S NOTICE OF**
9 **MOTION AND MOTION *IN LIMINE* TO EXCLUDE EVIDENCE AND ARGUMENT**
10 **REGARDING FINANCIAL CONDITION OF THE PARTIES; MEMORANDUM OF POINTS**
11 **AND AUTHORITIES; DECLARATION OF ELLEN E. COHEN IN SUPPORT THEREOF**

12 in this action by transmitting a true copy thereof enclosed in a sealed envelope addressed as follows:

13 Ann A. Hull, Esq.
14 Hannah J. Robinson, Esq.
15 LAW OFFICES OF ANN A. HULL, INC.
16 21900 Burbank Boulevard, Third Floor
17 Woodland Hills, California 91367
18 Telephone: (818) 606-6618
19 Facsimile: (818) 322-1321

20 *Attorneys for Plaintiff*
21 *Roya Saghafi*

22 **[X] BY GSO OVERNITE** I am "readily familiar" with the firm's practice of collection and
23 processing correspondence for deposit with GSO Overnight. Under that practice it would be deposited
24 with GSO Overnight on that same day with fees thereon fully prepaid at Los Angeles, California in the
25 ordinary course of business. I am aware that on motion of the party served, service is presumed invalid
26 if date of receipt of the document by GSO Overnight Express is more than one day after date of deposit
27 for mailing in affidavit.

28 **[X] STATE** I declare under penalty of perjury under the laws of the State of California that the
above is true and correct.

Executed on **July 15, 2019** at Los Angeles, California.

23 
24 ARTHUR ESCALANTE